

105TH CONGRESS
1ST SESSION

H. R. 1194

To amend the Federal Water Pollution Control Act relating to Federal facilities pollution control.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. DAN SCHAEFER of Colorado (for himself and Mr. NORWOOD) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act relating to Federal facilities pollution control.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Facilities
5 Clean Water Compliance Act of 1997”.

6 **SEC. 2. APPLICATION OF CERTAIN PROVISIONS TO FED-**
7 **ERAL FACILITIES.**

8 Section 313 of the Federal Water Pollution Control
9 Act (33 U.S.C. 1323) is amended—

1 (1) by redesignating subsection (b) as sub-
2 section (d); and

3 (2) by striking the section heading and all that
4 follows through subsection (a) and inserting the fol-
5 lowing:

6 **“SEC. 313. FEDERAL FACILITIES POLLUTION CONTROL.**

7 “(a) IN GENERAL.—Each department, agency, and
8 instrumentality of the executive, legislative, and judicial
9 branches of the Federal Government (1) having jurisdic-
10 tion over any property or facility, or (2) engaged in any
11 activity resulting, or which may result, in the discharge
12 or runoff of pollutants shall be subject to, and comply
13 with, all Federal, State, interstate, and local requirements,
14 both substantive and procedural (including any require-
15 ment for permits or reporting or any provisions for injunc-
16 tive relief and such sanctions as may be imposed by a
17 court to enforce such relief), respecting the control and
18 abatement of water pollution and management in the same
19 manner, and to the same extent, as any person is subject
20 to such requirements, including the payment of reasonable
21 service charges. The Federal, State, interstate, and local
22 substantive and procedural requirements, administrative
23 authority, and process and sanctions referred to in this
24 subsection include, but are not limited to, all administra-
25 tive orders and all civil and administrative penalties and

1 fines, regardless of whether such penalties or fines are pu-
2 nitive or coercive in nature or are imposed for isolated,
3 intermittent, or continuing violations. The United States
4 hereby expressly waives any immunity otherwise applicable
5 to the United States with respect to any such substantive
6 or procedural requirement (including, but not limited to,
7 any injunctive relief, administrative order, or civil or ad-
8 ministrative penalty or fine referred to in the preceding
9 sentence, or reasonable service charge). The reasonable
10 service charges referred to in this subsection include, but
11 are not limited to, fees or charges assessed in connection
12 with the processing and issuance of permits, renewal of
13 permits, amendments to permits, review of plans, studies,
14 and other documents, and inspection and monitoring of
15 facilities, as well as any other nondiscriminatory charges
16 that are assessed in connection with a Federal, State,
17 interstate, or local water pollution regulatory program.
18 Neither the United States, nor any agent, employee, or
19 officer thereof, shall be immune or exempt from any proc-
20 ess or sanction of any State or Federal court with respect
21 to the enforcement of any such injunctive relief. No agent,
22 employee, or officer of the United States shall be person-
23 ally liable for any civil penalty under any Federal, State,
24 interstate, or local water pollution law with respect to any
25 act or omission within the scope of the official duties of

1 the agent, employee, or officer. An agent, employee, or of-
2 ficer of the United States shall be subject to any criminal
3 sanction (including, but not limited to, any fine or impris-
4 onment) under any Federal or State water pollution law,
5 but no department, agency, or instrumentality of the exec-
6 utive, legislative, or judicial branch of the Federal Govern-
7 ment shall be subject to any such sanction.

8 “(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—

9 “(1) IN GENERAL.—The Administrator, the
10 Secretary of the Army, and the Secretary of the De-
11 partment in which the Coast Guard is operating may
12 commence an administrative enforcement action
13 against any department, agency, or instrumentality
14 of the executive, legislative, or judicial branch of the
15 Federal Government pursuant to the enforcement
16 authorities contained in this Act. The Administrator
17 or Secretary, as applicable, shall initiate an adminis-
18 trative enforcement action against such a depart-
19 ment, agency, or instrumentality in the same man-
20 ner and under the same circumstances as an action
21 would be initiated against another person. Any vol-
22 untary resolution or settlement of such an action
23 shall be set forth in a consent order.

24 “(2) OPPORTUNITY TO CONFER.—No adminis-
25 trative order issued to such a department, agency, or

1 instrumentality shall become final until such depart-
2 ment, agency, or instrumentality has had the oppor-
3 tunity to confer with the Administrator or Secretary,
4 as applicable.

5 “(c) LIMITATION ON STATE USE OF FUNDS COL-
6 LECTED FROM FEDERAL GOVERNMENT.—Unless a State
7 law in effect on the date of the enactment of this sub-
8 section or a State constitution requires the funds to be
9 used in a different manner, all funds collected by a State
10 from the Federal Government from penalties and fines im-
11 posed for violation of any substantive or procedural re-
12 quirement referred to in subsection (a) shall be used by
13 the State only for projects designed to improve or protect
14 the environment or to defray the costs of environmental
15 protection or enforcement.”.

16 **SEC. 3. DEFINITION OF PERSON.**

17 (a) GENERAL DEFINITIONS.—Section 502(5) of the
18 Federal Water Pollution Control Act (33 U.S.C. 1362(5))
19 is amended by inserting before the period at the end the
20 following: “and includes any department, agency, or in-
21 strumentality of the United States”.

22 (b) OIL AND HAZARDOUS SUBSTANCE LIABILITY
23 PROGRAM.—Section 311(a)(7) of such Act (33 U.S.C.
24 1321(a)(7)) is amended by inserting before the semicolon

- 1 at the end the following: “and any department, agency,
- 2 or instrumentality of the United States”.

